

Message Text

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FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 5368

INFO AMEMBASSY TOKYO

CINCPAC

C O N F I D E N T I A L SECTION 1 OR 2 SEOUL 5304

EO 11652: GDS

TAVE: PINT, PINS, KS

SUBJ: COURT-MARTIAL TRIALS

REF: SEOUL 5191

1. IN RESPONSE TO SEVERAL EMBASSY REQUESTS FOR HARD INFORMATION ABOUT MOST RECENT COURT-MARTIAL TRIALS, WHICH CULMINATED IN DIRECT REQUEST FROM AMBASSADOR TO PRIME MINISTER, COMMODORE LEE YANG WOO OF MND CALLED AT THE EMBASSY AUG 13 ATD GAVE AMBASSADOR REPORT ON CURRENT STATUS OF TRIALS, COMMODORE LEE IS LEGAL ADVISOR TO DEFENSE MINISTER AND SPOKESMAN FOR EMERGENCY COURTMA-

RTIAL BOARDS. HE SAID THAT SENTENCING OF 61 ADDITIONAL DEFENDANTS WHOSE TRIALS WERE INITIATED AUG 1 WITHOUT PUBLICITY (SEOUL 5164) WOULD TAKE PLACE AUG 14 AND THAT THIS WOULD CLOSE THE NFDYS CASE. ONLY REMAINING COURT-MARTIAL CASES HE SAID WOULD BE SIX NON-NFDYS CASES.

2. COMMODORE LEE GAVE AMBASSADOR STATISTICAL BREAK-DOWN OF CASES, WHICH WE WILL FORWARD BY POUCH. DATA SHOWS THAT OF 1042 PERSONS ARRESTED OR WHO TURNED

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SELVES IN FOR VIOLATION OF EMERGENCY MEASURES ALL BUT

298 WERE RELEASED BY INVESTIGATING AUTHORITIES. OF THE REMAINING 298 TURNED OVER TO THE PROSECUTORS, PROSECUTION RELEASED AN ADDITIONAL 97 AND DECIDED TO TRY A TOTAL OF 196. FIVE CIVILIANS STILL ARE UNDER INVESTIGATION BY PROSECUTORS.

3. ACCORDING TO LEE'S FIGURES, CURRENT STATUS OF 196 OEING PROSECUTED IS AS FOLLOWS:

21--FINAL JUDGEMENT TAKEN BY SUPREME COURT;

15--PENDING IN SUPREME COURT;

55--PENDING IN LOWER APPEALS COURT;

44--SENTENCED BY COURT-MARTIAL BOARDS BUT NASES NOT YET APPEALED;

61--SENTENCES TO BE ANNOUNCED AUG 16 BY COURT-MARTIAL BOARDS.

LEE'S DATA ALSO PROVIDE CONTENTS OF FIRST AND SECOND COURT JUDGEMENTS AND BASIC DETAILS INCLUDING CHARGES AND PRISON TERMS FOR 37 LEADING OFFENDERS.

4. IN ADDITION TO DATE, COMMODORE LEE PROVIDED "CONFIDENTIAL" PAPER DISTRIBUTED TO TOP-LEVEL OFFICIALS IN ROKG DESCRIBING THE NFDYS "PLOT." FIFTY-SEVEN PAGE ROKG PAPER CLAIMS DPRK ORGANIZED PLOT TO OVERTHROW ROKG THROUGH MEDIUM OF PEOPLES REVOLUTIONARY PARTY (PRP) AND NUMBER OF COMMUNIST LEADING STUDENTS AND ANTI-GOVT ELEMENTS. CASE QAS "ULTIMATE" UNDERTAKING INVOLVING "MOST SERIOUS HIGH TREASON" IN GAOK HISTORY. ACCORDING ROKG SCREWED PRP SECRETLY PLOTTED SINCE EARLY 60'S AND BUILT COMPREHENSIVE SYSTEM OF NETWORKS IN SCHOOLS AND OTHER COMMUNITIES CAREFULLY PLANNING STRATEGY FOR VIOLENT OVERTHROW OF GOVT. ALL CONNECTIONS DESCRIBED IN PREVIOUS EMBASSY REPORTING BETWEEN

DPRK, JAPANESE, PRP, AND NFDYS ARE OUTLINED IN DETAIL,
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AND NAMES, PLACES OF MEETINGS, AND REPORTS ON WHAT OCCURRED ARE SPELLED OUT. PREPARATIONS FOR UNIVERSITY DEMONSTRATIONS WHICH WERE DESIGNED TO PRECIPITATE NATIONAL UPRISING AND FINAL STEPS TO "PLANNED" APRIL 3 NATIONAL CAMPUS UPRISING ARE REITERATED. FINAL 15 PAGES OF REPORT OUTLINE SPECIFIC CHARGES AGAINST 17 PRINCIPLE DEFENDENTS INCLUDING BISHOP CHI AND YUN PO SUN.

COMMENT: WHILE REPORT

IS COMPREHENSIVE IT AMOUNTS
TO LITTLE MORE THAN GOVT REASSERTION OF WHAT IT HAS
LONG BEEN SAYING. NO CONCLUSIVE PROOF IS PRESENTED,
NO SOURCES OF EVIDENCE ARE CITED, AND SINCE TRIALS
HAVE BEEN CLOSED TO ALL BUT FAMILIES, WHO ARE UNDER
PRESSURE NOT TO TALK, IT IS DIFFICULT TO CROSS CHECK
VALIDITY OF CASE. ON ITS FACE IT IS UNCONVINCING.)

5. IN RESPONSE TO AMBASSADOR'S QUESTIONS, COMMODORE
LEE ALSO DISCUSSED FOLLOWING QUESTIONS REGARDING
PROCEDURES WHICH HAD BEEN FOLLOWED IN COURT-MARTIAL
TRIALS:

A. SECRECY: LEE DENIED TRIALS HAD BEEN SECRET.
FAMILY MEMBERS, AND REPORTERS AND DEFENSE LAWYERS HAD
ALL BEEN PRESENT. SUCH SEMI-CLOSED TRIALS ACCORDED
WITH PRINCIPLES OF KOREAN LAW AND WERE IN BEST SECURITY
INTEREST OF COUNTRY.

B. DEFENSE COUNSEL: ALL DEFENDANTS HAD BEEN GIVEN
RIGHT TO SELECT THEIR OWN LAWYERS.
IF DEFENDANTS WERE
TOO POOR OR WERE OTHERWISE UNABLE TO OBTAIN COUNSEL,
NATIONAL LAWYERS ASSOCIATION RECOMMENDED ATTORNEYS
WHOSE FEES WERE PAID BY ROKG.

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C. WITNESSES AND CROSS-EXAMINATIONS: ALL DEFENDANTS IN PRINCIPLE HAD RIGHT TO CALL ANY WITNESSES THEY WISHED. IN FACT MANY DEFENDANTS DID CALL WITNESSES. ALSO, HOWEVER, MANY DEFENDANTS DID NOT.

D. GUILTY PLEAS: WHILE HE COULDN'T BE PRECISE COMMODORE LEE INDICATED THAT A SUBSTANTIAL NUMBER OF DEFENDANTS HAD PLEADED GUILTY. MOST OF THE STUDENTS HE SAID HAD "RECOGNIZED THE FACTS" AND HAD PLEADED GUILTY. PRP DEFENDANTS WHO WERE HARD-CORE COMMUNIST AND FOLLOWED STANDARD COMMUNIST PRACTICE HAD GENERALLY PLEADED NOT GUILTY. THE EVIDENCE IN THEIR CASES HAD

BEEN OVERWHELMING, HOWEVER, AND THEY WERE CONVICTED.

E. AMNESTY: AFTER EACH STAGE OF SENTENCING, THE MINISTER OF DEFENSE HAS RIGHT TO REDUCE SENTENCES HANDED DOWN BY THE VARIOUS COURTS. ONLY THE PRESIDENT HOWEVER AT THE CONCLUSION OF THE TRIAL PROCEEDINGS HAS THE RIGHT TO DECLARE AMNESTY.

F. TORTURE: COMMODORE LEE SAID ROKG OFFICIALS
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REALIZED THAT THERE WERE MANY RUMORS AND PRESS REPORTS OF TORTURE. HE HAD SPENT MUCH TIME EXPLAINING THAT THIS WAS NOT TRUE TO FOREIGN CORRESPONDENTS. ALL STUDENTS IN THE NFDYS CASES HAD BEEN SPECIFICALLY ASKED THIS QUESTION BY THE JUDGES AND HAD ANSWERED "NO." LEE SAID HE HIMSELF HAD BEEN PRESENT AT ALL TRIALS AND COULD AFFIRM "AT LEAST AS FAR AS THE NFDYS CASES WERE CONCERNED" THAT THERE WERE NO "SEVERE INTERROGATIONS." LEE ARGUED THAT IT WOULD HAVE BEEN IMPOSSIBLE TO OBTAIN CORROBORATING TESTIMONY BY TORTURE FROM 200 INDIVIDUALS.

6. AS FOR RELEASING FURTHER INFORMATION REGARDING THE VARIOUS EMERGENCY MEASURES CASES, COMMODORE LEE SAID THAT ALL OF THE BASIC FIGURES PROVIDED PARA 3 WOULD BE ANNOUNCED AUG 14 WHEN THE SENTENCES IN THE LAST 61 CASES WERE HANDED DOWN. THE ROK DID NOT PLAN HOWEVER TO RELEASE DESCRIPTIVE DATA REGARDING THE NFDYS "PLOT," AS NATIONAL SECURITY MATTERS WERE INVOLVED. (COMMENT: WE ARE DOUBTFUL ABOUT THIS, SINCE "PLOT" PAPER HAS BEEN DONE UP IN BOOKLET FORM IN ENGLISH AND IS CLEARLY MEANT FOR EVENTUAL RELEASE.)

7. COMMENT: THE THEME RUNNING THROUGHOUT COMMODORE LEE'S

ANSERS AND CONTAINED IN THE PUBLICITY AND DATA HE GAVE IS
THAT THE ROKG PLANS TO ACT IN ACCORD WITH LEGAL FORMS. AS IN
MOFA'S ANSWERS TO CONGRESSMAN FRASER'S QUESTIONS (SEOUL 4821)
LEE ASSERTED THAT EVERYTHING WAS AND IS BEING DONE IN
ACCORD WITH
ROK LAW. ROKG CLAIMS THAT THE DEFENDANTS
BROKE THE LAW AND THEREFORE THEY HAD TO BE PROSECUTED.
THEY WERE SUBSEQUENTLY TRIED IN FULL ACCORD WITH THEIR
LEGAL RIGHTS.

8. THE TROUBLE WITH THE GOVERNMENT'S POSITION ACCORDING
TO ITS CRITICS IS TWO FOLD:

1. THE LAWS OFFER REASONABLE MEN NO ALTERNATIVE BUT
TO OPPOSE THEM; AND

2. THE CLAIMS ARE MERE ROKG ASSERTIONS AND
IN FACT ARE UNTRUE.

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WHERE THE REAL TRUTH LIES REMAINS UNCLEAR, BUT IT IS
SIGNIFICANT THAT THE ROKG ITSELF HAS NOT MADE A
LOGICALLY CONVINCING CASE.

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